

REMARKS

In this Amendment, claims 1, 2 and 4-6 are amended, and claim 3 is canceled.

After entry of this Amendment, claims 1, 2 and 4-23 are pending in the application. Of these, claims 1, 2 and 4 are currently under consideration. Claims 5-23 are withdrawn, but rejoinder is requested after an elected claim is found allowable.

Claims 1, 2 and 4 have been amended to recite an “isolated” polypeptide, as supported by page 6 of the specification.

Similarly, withdrawn claims 5 and 6 are amended to recite an “isolated” polynucleotide.

Claim 1 has also been amended to recite that the polypeptide is “isolated from a microorganism belonging to the genus *Devosia*.” This amendment is supported by the specification at page 5, for example.

Claim 2 has been amended to recite that the polypeptide is “encoded by a polynucleotide that is capable of hybridizing under stringent conditions with a polynucleotide comprising the base sequence complementary to SEQ ID NO: 2.” This amendment is supported at page 7, lines 2-20, of the specification.

No new matter has been introduced.

Entry of this Amendment is respectfully submitted to be proper.

I. Priority Document

Initially, the Examiner is kindly requested to indicate, in the next correspondence from the Office, whether the certified copy of the priority document has been received.

II. Response to Claim rejections Under 35 U.S.C. § 101

At page 3 of the Office Action, claims 1-4 are rejected under 35 USC §101 on the basis that these claims read on the polypeptide in its natural state.

The Examiner indicates that this rejection may be overcome by amending the claims to recite an “isolated polypeptide.”

Accordingly, claims 1, 2 and 4 have been amended to recite an isolated polypeptide, and claim 3 has been canceled.

Withdrawn claims 5 and 6 have similarly been amended to recite an “isolated” polynucleotide.

Withdrawal of this rejection is respectfully requested.

II. Response to Claim rejections Under 35 U.S.C. § 112, Second Paragraph

At page 3 of the Office Action, claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

Specifically, the Office Action states that the language “derived from” renders claims 2 and 3 indefinite because the language could allegedly mean “isolated from,” or alternatively be interpreted to encompass mutants of natural proteins.

Claim 2 does not use the language “derived from,” and thus the rejection of this claim under section 112, second paragraph, is traversed.

To the extent that this rejection was intended for claim 1, claim 1 has been amended to use the language “isolated from.”

Claim 3 has been canceled.

The amended claims are respectfully submitted to be clear and definite. Accordingly, withdrawal of this rejection is respectfully requested.

III. Response to Claim Rejections Under 35 U.S.C. § 112, First Paragraph

(1) At pages 4-6 of the Office Action, claims 1 and 2 are rejected under 35 U.S.C. §112, first paragraph, as not being in compliance with the written description requirement.

Specifically, the Examiner contends that the specification does not provide a description of a representative number of species of the genera of polynucleotides recited in claims 1 and 2, so as to evidence possession of the claimed invention.

(2) At pages 6-8 of the Office Action, claims 1-2 are rejected under 35 U.S.C. 112, first paragraph, as not being in compliance with the enablement requirement.

Specifically, while the Examiner acknowledges that the specification is enabling for the polypeptide of SEQ ID NO: 1, the Examiner contends that the specification does not reasonably provide enablement for the genus of polypeptides encompassed by the claims. The Examiner supports this rejection on the notion that that some correlation between protein structure and function is required to reasonably predict those variations in amino acid sequence that would not abrogate the disclosed activity.

Claim 1 has been amended to limit the claimed polypeptide to those isolated from the genus *Devosia*.

It is believed that the present disclosure shows possession of this genus of polypeptides, and isolation of further species from *Devosia* would not be undue experimentation. As set forth in MPEP §2163: "Description of a representative number of species does not require the

description to be of such specificity that it would provide individual support for each species that the genus embraces.”

With respect to claim 2, claim 2 has been amended to recite “a polypeptide encoded by a polynucleotide that is capable of hybridizing under stringent conditions with a polynucleotide comprising the base sequence complementary to SEQ ID NO: 2.”

“Stringent conditions” are defined at page 7 of the Office Action.

It is believed that the present disclosure shows possession of this genus of polypeptides, and isolation of further species would not be undue experimentation.

Withdrawal of this rejection is requested.

IV. Conclusion

In view of the above, reconsideration of this application is requested. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the local Washington, D.C. telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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Respectfully submitted,


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